



COMMONWEALTH OF KENTUCKY
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OAG 16-009

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November 10, 2016

Subject: Whether a county jail may charge for housing city prisoners

Requested by: Rep. David Meade

Written by: Matt James

Syllabus: A county jail may charge the fees set by agreement between the city and the fiscal court for prisoners charged with violations of the city's ordinances. Prisoners charged with violations of state law are not city prisoners, even though they may have been arrested by city officials.

Statutes construed: KRS 441.025; KRS 441.035

OAGs cited: OAG 83-299; OAG 80-463

Opinion of the Attorney General

Rep. David Meade has requested an opinion of this office concerning the ability of county jails to charge for housing city prisoners. We advise that a county jail may charge the fees set by agreement between the fiscal court and a city for prisoners charged with violations of the city's ordinances. Prisoners charged with violations of state law are not city prisoners, even though they may have been arrested by city officials.

Rep. Meade informs us that city prisoners have been housed at no charge at Lincoln County Regional Jail in Stanford, Kentucky. In addition to housing state and county prisoners, Lincoln County Regional Jail also houses prisoners for the cities of Stanford, Crab Orchard, and Hustonville. At issue is whether the

Lincoln County Regional Jail may charge for the expenses incurred by the city prisoners.

KRS 441.035 provides that "any city may use the jail of the county in which the city is located for the incarceration of prisoners charged with or convicted of violations of the city's ordinances, by paying the county the fees set by agreement with the fiscal court for the type of services rendered." KRS 441.035 provides that any city may use the county jail to house prisoners charged with violations of the city's ordinances by paying the fees set by agreement between the city and the county. However, this obligation on the cities to pay is limited only to inmates charged with violations of city ordinances, and does not extend to prisoners arrested by a city for violations of state law. "Persons arrested within the city but charged with a violation of state law would not be city prisoners" OAG 80-463. KRS 441.025(1) provides that "the fiscal court of each county shall provide for the incarceration of prisoners arrested in the county or sentenced or held by order of the courts in the county." "We find no statutes requiring such city to contribute to or pay for the incarceration, housing, transportation, feeding and medical treatment . . . of persons arrested by its officers." OAG 83-299. Accordingly, a county jail may charge a city the fees agreed upon for incarceration of prisoners charged with violations of city ordinances. Prisoners charged with violations of state law within a county are the responsibility of the county unless otherwise provided.

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